

Lane County News

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Editorial

The constitutionality of Oregon's Right to Farm and Right to Forest Act is being challenged in Lane County Circuit Court. If successful, the case will have far-reaching impacts on farmers and ranchers of all stripes in the state.

The act is designed to protect farmers, ranchers and foresters from nuisance lawsuits that result from regularly accepted industry practices on designated farmland.

The case stems from a previous Lane County court case involving two plaintiffs, a married couple, who sued a forester and chemical applicator. They claimed herbicide applied to a hillside above their property drifted onto their land. They later dropped the suit, but under the Right to Farm and Right to Forest Act were ordered to pay the defendants' legal fees.

Now joined by five other plaintiffs, the couple is suing to have the law declared unconstitutional because it strips them of protections against migration from forestland and farmlands of "noise, vibration, odors, smoke, dust, mist, pesticides and any other harmful substances used with regard to crop production."

They claim in their suit that plaintiffs are deterred from seeking judgments for actual damages suffered because defendants can claim their actions are immunized by the act. As a consequence, plaintiffs with real claims can be forced to pay legal fees to farmers and ranchers if their cases are judged to be "nuisance" lawsuits.

But under the act farmers, ranchers and foresters aren't immunized against suit when their actions cause actual damages, or when they are negligent. A conventional farmer, for example, could be sued if herbicides applied to his farm drift to a neighbor's land and damage organic crops.

The law is intended to protect farmers against nonfarm neighbors who don't like the dust, noise or smells commonly associated with farm and ranch operations. It envisions the inevitable conflicts that occur when city dwellers come to the country to drink in the rural lifestyle and move into a house next to a working farm.

The act's protections are not limited to farmers who use chemical herbicides and pesticides. Organic crop and livestock operations can create dust, noise and odors sufficient to offend the neighbor not acquainted with, or accommodating to, the realities of food production.

The protections are particularly important because of Oregon's strict land-use laws that all but require huge swaths of rural land be farmed to the exclusion of any other productive use. Without the act, a lot of farmers would find themselves having to decide between letting land go fallow or inviting certain litigation.

The state has asked that the case be dismissed, and we think it should be. The merit of each plaintiff's case for damages is decided by the court, and the act offers no sweeping or blanket prohibition against the filing of such lawsuits.

The act has not deprived these plaintiffs from protections against the actions of their neighbors, it merely requires that more than their aesthetic sensibilities have been harmed.